

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LIONEL WILLIAMS,) No. C 11-00397 JW (PR)
Plaintiff,) ORDER OF DISMISSAL
vs.)
ALAMEDA COUNTY, et al.,)
Defendants.)

Plaintiff filed a pro se civil rights complaint pursuant to 42 U.S.C. § 1983.

On February 28, 2011, plaintiff filed a notice of withdrawal, stating that he does not wish to proceed with the instant action. (Docket No. 4.)

A plaintiff has the absolute right to dismiss his or her action by filing a notice of dismissal “at any time before service by the adverse party of an answer or of a motion for summary judgment.” Fed. R. Civ. P. 41(a)(1)(i). Said dismissal may be with or without prejudice, but unless plaintiff’s notice of dismissal states otherwise, it is deemed to be “without prejudice.” See Fed. R. Civ. P. 41(a)(1); Humphreys v. United States, 272 F.2d 411, 412 (9th Cir. 1959). No court order is required. Plaintiff’s notice of dismissal is effective by itself to terminate the action: “[A]n action may be dismissed by the plaintiff without order of the court . . . by

United States District Court
For the Northern District of California

1 filing a notice of dismissal.” Fed. R. Civ. P. 41(a)(1); see also Hamilton v.
2 Shearson- Lehman American Exp. Inc., 813 F.2d 1532, 1534-1536 (9th Cir. 1987)
3 (Rule 41(a)(1)(i) does not require leave of court to dismiss the action).

4 Plaintiff’s notice, which the court construes as his “Notice of Dismissal,” was
5 filed before service by the adverse party of an answer. Therefore, the Court finds
6 that plaintiff has the absolute right to dismiss his action voluntarily. See Fed. R.
7 Civ. P. 41(a)(1)(i). Based on plaintiff’s request for voluntary dismissal, this action is
8 DISMISSED without prejudice. See id.

9 The clerk shall terminate all pending motions as moot.

10
11 DATED: March 16, 2011


12 JAMES WARE
13 United States District Chief Judge

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United States District Court
For the Northern District of California

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

1 LIONEL WILLIAMS,

2 Case Number: CV11-00397 JW

3 Plaintiff,

4 **CERTIFICATE OF SERVICE**

5 v.

6 ALAMEDA COUNTY et al,

7 Defendant.

8 _____
9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.
10 District Court, Northern District of California.

11 That on March 18, 2011, I SERVED a true and correct copy(ies) of the attached, by
12 placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter
13 listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an
14 inter-office delivery receptacle located in the Clerk's office.

15
16
17 Lionel Williams
18 1550 - 162nd Ave #50
19 San Leandro, CA 94571

20 Dated: March 18, 2011

21 Richard W. Wierking, Clerk
22 /s/ By: Elizabeth Garcia, Deputy Clerk

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28 Order of Dismissal

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